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FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

MAR 31 2003

MARKUS B. ZIMMER, CLERK
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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA

Plaintiff,

v.

PAYSOURCE LLC,
PROVIDENT MANAGEMENT GROUP, INC.,
PROVIDENT BUSINESS PARTNERS INC.,
SCOTT M. BOLEY,
DOUGLAS C. MORBY,
ROBERT A. LANGFORD,
ZEPHYR TRUST, SCOTT M. BOLEY AS
TRUSTEE OF ZEPHYR TRUST, OMEGA
RESOURCES GROUP TRUST, DOUGLAS C.
MORBY AS TRUSTEE OF OMEGA
RESOURCES GROUP TRUST,
TIMPVIEW MARKETING TRUST, DOUGLAS
C. MORBY AS TRUSTEE OF TIMPVIEW
MARKETING TRUST, ALBION TECH TRUST,
ROBERT A. LANGFORD AS TRUSTEE OF
ALBION TECH TRUST, MARITIME GROUP
TRUST, SCOTT M. BOLEY AS TRUSTEE OF
MARITIME GROUP TRUST, LANGFORD
TRUST, ROBERT A. LANGFORD AS
TRUSTEE OF LANGFORD TRUST,

) Case No. 2:03CV-0306 TC

) COMPLAINT

SEALED

CENTRAL BANK, WELLS FARGO BANK)
ARIZONA N.A., WELLS FARGO BANK)
NORTHWEST N.A., BANK OF UTAH,)
BANK OF AMERICAN FORK,)
M&I MARSHALL & ILSLEY BANK.)
)
Defendants.)

The United States of America, by its undersigned attorneys, for its complaint alleges as follows:

1. This is a civil action brought by the United States seeking a mandatory injunction to prevent the above-named defendants, Paysource LLC, Provident Management Group, Inc., Provident Business Partners, Inc., Scott M. Boley, Douglas C. Morby, Robert A. Langford, Zephyr, Omega Resources Group, Timpview Marketing, Albion Tech and Maritime Group from continuing to operate a payroll service company in the name of Provident Management Group, Inc., or in any other name, or from continuing the operation of any new payroll service company, employee leasing company, or any similar operation; to freeze the assets of defendants Paysource LLC, Provident Management Group, Inc., Provident Business Partners, Inc., Scott M. Boley, Douglas C. Morby, Robert A. Langford, Zephyr, Omega Resources Group, Timpview Marketing, Albion Tech and Maritime Group; and to appoint a receiver to take possession of all of the assets of defendants Paysource LLC, Provident Management Group, Inc., Provident Business Partners, Inc., Scott M. Boley, Douglas C. Morby, Robert A. Langford, Zephyr Trust, Omega Resources Group Trust, Timpview Marketing Trust, Albion Tech Trust and Maritime Group Trust and determine the proper party to receive the funds and property collected.

2. This action is being commenced pursuant to 26 U.S.C. §§ 7401 and 7402, at the

direction of the Attorney General of the United States and with the authorization of the Chief Counsel of the Internal Revenue Service (IRS), a delegate of the Secretary of the Treasury.

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1340 and 1345, and pursuant to 26 U.S.C. §§ 7401 and 7402(a).

4. Venue for this action is proper in the Central District of Utah pursuant to 28 U.S.C. §§ 1391 and 1396 because Provident Management Group Inc. is located within this judicial district.

5. Paysource LLC, located at 136 E. South Temple, Suite, 2450, Salt Lake City, Utah 84111, began operations as a payroll service company in September 2000.

6. As a payroll service company, Paysource LLC is in the business of filing federal (Forms 940 and 941) and state employment tax returns and making the required federal and state employment tax deposits, workers compensation payments and health insurance premium payments for its clients, who are employers.

7. An employer is required to withhold and pay over to the United States from the wages of its employees "employment taxes" including IRS Form 941 federal income tax withholding and Federal Insurance Contributions Act ("FICA") taxes, as well as IRS Form 940, Federal Unemployment Tax Act ("FUTA") taxes.

8. Under an agreement titled "Limited Power of Attorney and Tax Information Authorization," Paysource LLC's clients appointed Paysource LLC to be a registered agent with the IRS. Under the terms of the agreement, the clients would then pay their payroll over to Paysource LLC, and Paysource LLC would prepare the payroll checks, make the employment tax withholding deposits, prepare the employment tax returns, and pay other benefits provided by the agreement, such as workers compensation payments and health insurance premium payments.

9. In 2001, Paysource LLC began operating under the name Provident Management Group, Inc. Provident Management Group, Inc. is located at 136 E. South Temple, Suite 2450, Salt Lake City, Utah 84111.

10. Provident Management Group, Inc. also operates under the name Provident Business Partners Inc., located at 1215 East Brown Road, Suite B, Mesa, Arizona 85203.

11. Scott M. Boley is the president and part-owner of Provident Management Group, Inc. and resides at 1749 N 1200 E, Heber City, Utah 84032-3404.

12. Scott M. Boley is being sued in his individual capacity, as trustee of Zephyr Trust, and as trustee of Maritime Group Trust, which is a part-owner of Provident Management Group, Inc.

13. Douglas C. Morby is the chief executive officer and part-owner of Provident Management Group, Inc. and resides at 826 E 700 N, American Fork, Utah 84003.

14. Douglas C. Morby is being sued in his individual capacity, as trustee of Timpview Marketing Trust, and as trustee of Omega Resources Group Trust, which is a part-owner of Provident Management Group, Inc.

15. Robert A. Langford is the secretary/treasurer and one-third owner of Provident Management Group, Inc. and resides at 1252 E. Halifax Street, Mesa, Arizona 85203.

16. Robert A. Langford is being sued in his individual capacity, as trustee of Langford Trust, and as trustee of Albion Tech Trust, which is a part-owner of Provident Management Group, Inc.

17. Central Bank, located at 175 E. Main Street, American Fork, Utah 84003, is named

as a defendant herein because it is a financial institution at which defendants have accounts.

18. Wells Fargo Bank Arizona N.A., located at P.O. Box 29779, Phoenix, Arizona 85038-9779 is named as a defendant herein because it is a financial institution at which defendants have accounts.

19. Wells Fargo Bank Northwest N.A., located at P.O. Box 29779, Phoenix, Arizona 85038-9779 is named as a defendant herein because it is a financial institution at which defendants have accounts.

20. Bank of Utah, located at 2605 Washington Blvd., Ogden, Utah 84401 is named as a defendant herein because it is a financial institution at which defendants have accounts.

21. Bank of American Fork, located at 1280 S 800 E, Orem, Utah 84097 is named as a defendant herein because it is a financial institution at which defendants have accounts.

22. M&I Marshall & Ilsley Bank, located at One E. Camelback Road, Phoenix, Arizona 85012, is named as a defendant herein because it is a financial institution at which defendants have accounts.

23. Provident Management Group, Inc. has failed to make federal employment tax deposits, in the amount of \$2,377,327.00, for its clients.

24. Provident Management Group, Inc. has failed to file at least 282 federal employment tax returns for its clients.

25. In October, 2001, Provident Management Group, Inc. used funds it received from its clients to pay federal employment taxes to purchase Dalton Pipelines & Excavation, Inc., an excavation business.

26. After Provident Management Group, Inc. purchased Dalton Pipelines & Excavation,

Inc., the name of the business was changed to Xcavate, Inc. and ownership of the business was placed in the name of Zephyr Trust.

27. Scott Boley, who is president of Provident Management Group, Inc., owns a beneficial interest in Zephyr Trust.

28. Provident Management Group, Inc. owns real estate located at 4670 Nelson Court, Park City, Utah. Summit County property records indicate that Provident Management Group, Inc. acquired the property on June 30, 2002 and that the market value of the property is \$554,667.00.

29. The officers of Provident Management Group, Inc. have used funds deposited in Provident Management Group, Inc.'s client trust account to pay their personal expenses.

30. The Internal Revenue Service has attempted unsuccessfully to administratively collect the liabilities described in paragraph 23, above, and to compel the filing of the federal employment tax returns described in paragraph 24, above.

31. Although the Internal Revenue Service has informed many of Provident Management Group, Inc.'s clients of the nonpayment of their federal employment taxes, some clients continue to send their payroll funds to Provident Management Group, Inc.

32. If an employer pays net wages but fails to pay withheld employment taxes to the United States, the employee is nonetheless credited with payment, and the Government does not require any additional payment from the employee. *Slodov v. United States*, 436 U.S. 238, 243 (1978). The United States has suffered irreparable harm as a result of the Provident Management Group, Inc.'s failure to make the deposits required by law, since the failure has resulted in a pyramiding and continued accumulation of employment tax liabilities with respect to which there

is no ready source of collection.

33. The United States has no adequate remedy at law to prevent defendants from continuing to pyramid employment tax liabilities.

WHEREFORE plaintiff, the United States of America, respectfully prays as follows:

a. That this Court enter an injunction preventing any of the defendants Paysource LLC, Provident Management Group, Inc., Provident Business Partners, Inc., Scott M. Boley, Douglas C. Morby, Robert A. Langford, Zephyr Trust, Omega Resources Group Trust, Timpview Marketing Trust, Albion Tech Trust and Maritime Group Trust from continuing the operation of a payroll service company in the name of Provident Management Group, Inc., or in any other name, or from continuing the operation of any new payroll service company, employee leasing company, or any similar operation;

b. That this Court enter an order freezing all assets of defendants Paysource LLC, Provident Management Group, Inc., Provident Business Partners, Inc., Scott M. Boley, Douglas C. Morby, Robert A. Langford, Zephyr Trust, Omega Resources Group Trust, Timpview Marketing Trust, Albion Tech Trust and Maritime Group Trust and the assets they control either directly or indirectly;

c. That this Court appoint a receiver to take control of all assets frozen by the Court, provide an accounting of the funds of the clients of Provident Management Group, Inc., or any other payroll service company operated by any of the above-named defendants, determine the proper party to receive the funds collected through the receivership, and pay out the funds of the receivership as directed by the Court;

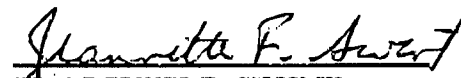
d. That the Court order the receiver to immediately contact all clients of Provident

Management Group, Inc. to inform them of the nature of the injunction and to terminate the payroll service business.

e. That the receiver be empowered to take any other action necessary to protect the interests of the United States Internal Revenue Service and/or the clients of the payroll service company or companies operated through Provident Management Group, Inc., or through any other entity or name, by defendants Paysource LLC, Provident Management Group, Inc., Provident Business Partners, Inc., Scott M. Boley, Douglas C. Morby, Robert A. Langford, Zephyr Trust, Omega Resources Group Trust, Timpview Marketing Trust, Albion Tech Trust and Maritime Group Trust; and

f. That this Court grant the United States such other equitable relief as the Court may deem just and appropriate under the circumstances to ensure defendants' compliance with the internal revenue laws and to prevent the further pyramiding of the employment tax liabilities described herein.

PAUL M. WARNER
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